

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CR 04-BE-086-S
)	
DANYELL SHERARD BENSON)	

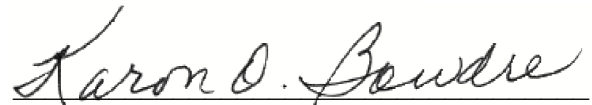
MEMORANDUM OPINION AND ORDER

Before the court is the defendant's motion for a hearing to determine the mental competency of the defendant to stand trial and for a determination of whether there is any evidence that the defendant was not competent at the time of the offense. (Doc. 9). On November 16, 2004, the magistrate judge assigned this matter entered a report and recommendation finding the defendant competent to stand trial or enter a plea of guilty. No objections have been filed to the report and recommendation.

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, the court finds by a preponderance of the evidence that the defendant has the ability to understand the nature and consequences of the proceedings against him and to assist properly in his defense. He therefore is competent to proceed to trial or a plea.¹

¹ The court also notes that Dr. Ackerson concluded that the defendant "demonstrated minimal difficulty in recalling and providing information," however, this does not alter the court's determination in this matter. (Doc. 12 at p. 5).

DONE and ORDERED this the 2nd day of December, 2004.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE